

WILLIAM A. MUNDELL
CHAIRMAN

JIM IRVIN
COMMISSIONER

MARC SPITZER
COMMISSIONER



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ARIZONA CORPORATION COMMISSION

OPEN MEETING ITEM
MEMORANDUM

TO: Chairman William A. Mundell
Commissioner Jim Irvin
Commissioner Marc Spitzer
Arizona Corporation Commission

FROM: Mark Sendrow *MS*
Director of Securities

DATE: August 14, 2001

RE: Proposed Amendment to the Delegation of Authority
Docket Number RS-00000A-01-0514

cc: Brian C. McNeil, Executive Secretary

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The Securities Division (the "Division") requests the Commission's approval and entry of an order delegating to the Director of the Division specified authority under the Securities Act and Investment Management Act, pursuant to A.R.S. §§ 44-1821 and 44-3131.

The Division proposes revising the current delegation to reflect statutory changes created in Senate Bill 1044, which became effective August 9, 2001. The Division proposes a new delegation to incorporate the new statutes, the current delegation, and the amendment to the current delegation, which reflects the July 2000 statutory changes created in Senate Bill 1099.

Attached is a copy of the proposed order for your review. The Division has solicited the informal advice and comments of the office of the attorney general, the securities section of the State Bar of Arizona, and the Division's staff regarding the proposed delegation. The Division has not received responses to its requests for comments from the private bar or the office of the attorney general. The Division recommends that the order be entered as proposed.

Originator: Cheryl T. Farson
Asst. AG Assigned: Moira McCarthy

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

IN THE MATTER OF THE) DOCKET NO. RS-00000A-01-0514
DELEGATION OF AUTHORITY TO THE)
DIRECTOR OF SECURITIES PURSUANT TO) DECISION NO. _____
A.R.S. §§ 44-1821 AND 44-3131) ORDER

BY THE COMMISSION:

The Securities Division (the "Division") of the Arizona Corporation Commission (the "Commission") has recommended to the Commission that it delegate to the Director of Securities (the "Director") certain authority under the Securities Act of Arizona (the "Securities Act"), A.R.S. § 44-1801 *et seq.*, the Arizona Investment Management Act (the "IM Act"), A.R.S. § 44-3101 *et seq.* (jointly hereinafter referred to as the "Acts"), and the rules in the Arizona Administrative Code promulgated under and governing the administration of the Acts, A.A.C. R14-4-101 *et seq.* and A.A.C. R14-6-101 *et seq.*, (collectively hereinafter referred to as the "Rules"); and

The Commission has the power to make such delegation of authority pursuant to A.R.S. §§ 44-1821(B) and 44-3131(B); and such delegation is convenient and necessary to the efficient administration of the Acts and Rules:

IT IS THEREFORE ORDERED, to the extent consistent with other provisions of this Order, that all authority granted to the Commission in the provisions of the Acts and Rules set forth below is hereby delegated to the Director:

1. A.R.S. § 41-192;
2. A.R.S. §§ 44-1822 through 44-1824;

- 1 3. A.R.S. § 44-1843(A)(6)(d);
- 2 4. A.R.S. § 44-1843.01 and § 44-1844(C);
- 3 5. A.R.S. § 44-1846(C);
- 4 6. A.R.S. § 44-1850;
- 5 7. A.R.S. § 44-1861 except as to rulemaking;
- 6 8. A.R.S. § 44-1862 and § 44-1863;
- 7 9. A.R.S. §§ 44-1872 and 44-1874;
- 8 10. A.R.S. §§ 44-1876, 44-1877, and 44-1878;
- 9 11. A.R.S. §§ 44-1893 and 44-1894 except as to the entry of formal agreements with
- 10 the administrators of the securities laws of other states, Canada, Mexico, or the North American
- 11 Securities Administrators Association;
- 12 12. A.R.S. § 44-1897;
- 13 13. A.R.S. §§ 44-1900 and 44-1901 except as to the issuance of orders under
- 14 Subsection (L);
- 15 14. A.R.S. §§ 44-1941 except as to rulemaking and the issuance of orders under
- 16 Subsection (C), 44-1943, 44-1945 except as to rulemaking and the issuance of orders under
- 17 Subsection (B), 44-1947, and 44-1948;
- 18 15. A.R.S. § 44-1972 except as to the issuance of orders and rulemaking;
- 19 16. A.R.S. §§ 44-2032(4) & (5);
- 20 17. A.R.S. § 44-2122;
- 21 18. A.R.S. § 44-3102;
- 22 19. A.R.S. §§ 44-3132 and 44-3133;
- 23 20. A.R.S. §§ 44-3153, 44-3155(B), 44-3156, 44-3157(B), 44-3158 except as to
- 24 rulemaking, and 44-3159;
- 25 21. A.R.S. § 44-3181;

1 22. A.R.S. § 44-3212 except as to the issuance of orders and rulemaking;

2 23. A.R.S. § 44-3271;

3 24. A.R.S. §§ 44-3292(4) & (5);

4 25. A.R.S. §§ 44-3321, 44-3322 except as to rulemaking, and 44-3323 except as to
5 rulemaking;

6 26. A.R.S. § 44-3325.

7 IT IS FURTHER ORDERED that, except as otherwise provided in this Order, the
8 Commission delegates to the Director its authority relating to the Rules. This delegation includes
9 the authority to waive or abrogate any particular provisions of the Rules in any specific instance
10 where the Director deems it advisable for the equitable administration of the law. The Director
11 may issue temporary cease and desist orders pursuant to R14-4-307. This delegation constitutes
12 the consent of the Commission as set forth in R14-4-307. Unless otherwise expressly ordered by
13 the Commission, any subsequent amendments or addition to the Rules are included in this
14 delegation.

15 IT IS FURTHER ORDERED that the Director may subdelegate all or part of the foregoing
16 authority to the Assistant Director of Securities (the "Assistant Director") with the exception of the
17 authority to issue subpoenas unless the Assistant Director is an attorney. The Director, or the
18 Assistant Director with the approval of the Director, may subdelegate all or part of the authority set
19 forth in paragraphs 2 (only as to A.R.S. § 44-1824), 3, 4, 6, 7, 8 (only as to A.R.S. § 44-1862), 9,
20 10, 11, 12, 13, 14, 17, 18, 20, 21, 25, and 26, and A.A.C. R14-4-101, R14-4-102, R14-4-105, R14-
21 4-109, R14-4-119, R14-4-122, R14-4-124, R14-4-126, R14-4-127, R14-4-129, R14-4-134, R14-4-
22 139, R14-4-144, R14-4-146, R14-4-147, R14-6-105, and R14-6-208 to the Director of Registration
23 and Compliance, except the authority to suspend, revoke, or deny an exemption. The Director may
24 subdelegate all or part of the authority to issue subpoenas to attorneys who maintain supervisory
25 positions in the Division.

1 IT IS FURTHER ORDERED that the Director may, in his discretion, refer to the
2 Commission for action any matter covered by this delegation.

3 IT IS FURTHER ORDERED that this Order supersedes all previous orders of the
4 Commission delegating authority to the Director (except for delegations of authority made in
5 Decision Numbers 60190 (May 16, 1997), 60192 (May 16, 1997), and 60251 (June 12, 1997)
6 concerning Memorandums of Understanding entered into by the Securities Division relating to
7 Securities Investigations Database, Coordinated Regulatory Initiatives regarding the Investment
8 Advisory Industry, and Coordinated Review of Equity Securities Offerings) and is intended to set
9 forth in a single document all such delegations of authority.

10 IT IS FURTHER ORDERED that nothing in this Order is to be construed in any way to
11 restrict the powers of the Commission under A.R.S. §§ 44-1821 and 44-3131 at any future time to
12 revoke any part of this Order or to rescind authority delegated to the Director.

13 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

14 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

15
16 CHAIRMAN

COMMISSIONER

COMMISSIONER

17 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
18 Executive Secretary of the Arizona Corporation
19 Commission, have hereunto set my hand and caused
20 the official seal of this Commission to be affixed at
the Capitol, in the City of Phoenix, this ____ day of
____, 2001.

21
22
23 BRIAN C. McNEIL
Executive Secretary

24 DISSENT
25 (ctf)

1 This document is available in alternative formats by contacting Shelly M. Hood, ADA Coordinator,
2 voice phone number 602-542-3931, E-mail shood@cc.state.az.us.